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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-671

12 **KARA MARET BAYMA**  
18 Lakewood Way, Chico, CA 95926

**A C C U S A T I O N**

13 **Registered Nurse License No. 516844**  
14 **Public Health Nurse Certificate No. 55096**

15 Respondent.

16  
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive  
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about October 13, 1995, the Board issued Registered Nurse License Number  
22 516844 to Kara Maret Bayma ("Respondent"). The license expired on March 31, 2011, and was  
23 renewed on August 9, 2011. The license was in full force and effect at all times relevant to the  
24 charges herein. The license will expire on March 31, 2013, unless renewed.

25 3. On or about January 16, 1996, the Board issued Public Health Nurse Certificate  
26 Number 55096 to Respondent. The license was in full force and effect at all times relevant to the  
27 charges herein. The license will expire on March 31, 2013, unless renewed.  
28

## JURISDICTION

4. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Code section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

8. Code section 2770.7 states:

(a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the diversion program. Only those registered nurses who have voluntarily requested to participate in the diversion program shall participate in the program.

1 (b) A registered nurse under current investigation by the board may request  
2 entry into the diversion program by contacting the board. Prior to authorizing a  
3 registered nurse to enter into the diversion program, the board may require the  
4 registered nurse under current investigation for any violations of this chapter or any  
other provision of this code to execute a statement of understanding that states that  
the registered nurse understands that his or her violations that would otherwise be the  
basis for discipline may still be investigated and may be the subject of disciplinary  
action.

5 (c) If the reasons for a current investigation of a registered nurse are based  
6 primarily on the self-administration of any controlled substance or dangerous drug or  
7 alcohol under Section 2762, or the illegal possession, prescription, or nonviolent  
8 procurement of any controlled substance or dangerous drug for self-administration  
9 that does not involve actual, direct harm to the public, the board shall close the  
10 investigation without further action if the registered nurse is accepted into the board's  
diversion program and successfully completes the requirements of the program. If the  
registered nurse withdraws or is terminated from the program by a diversion  
evaluation committee, and the termination is approved by the program manager, the  
investigation shall be reopened and disciplinary action imposed, if warranted, as  
determined by the board.

11 (d) Neither acceptance nor participation in the diversion program shall  
12 preclude the board from investigating or continuing to investigate, or taking  
13 disciplinary action or continuing to take disciplinary action against, any registered  
nurse for any unprofessional conduct committed before, during, or after participation  
in the diversion program.

14 (e) All registered nurses shall sign an agreement of understanding that the  
15 withdrawal or termination from the diversion program at a time when the program  
16 manager or diversion evaluation committee determines the licensee presents a threat  
to the public's health and safety shall result in the utilization by the board of diversion  
treatment records in disciplinary or criminal proceedings.

17 (f) Any registered nurse terminated from the diversion program for failure  
18 to comply with program requirements is subject to disciplinary action by the board  
19 for acts committed before, during, and after participation in the diversion program. A  
20 registered nurse who has been under investigation by the board and has been  
terminated from the diversion program by a diversion evaluation committee shall be  
reported by the diversion evaluation committee to the board.

21 9. Code section 2770.11 states:

22 (a) Each registered nurse who requests participation in a diversion program  
23 shall agree to cooperate with the rehabilitation program designed by the committee  
24 and approved by the program manager. Any failure to comply with the provisions of  
25 a rehabilitation program may result in termination of the registered nurse's  
participation in a program. The name and license number of a registered nurse who is  
terminated for any reason, other than successful completion, shall be reported to the  
board's enforcement program.

26 (b) If the program manager determines that a registered nurse, who is denied  
27 admission into the program or terminated from the program, presents a threat to the  
28 public or his or her own health and safety, the program manager shall report the name  
and license number, along with a copy of all diversion records for that registered  
nurse, to the board's enforcement program. The board may use any of the records it  
receives under this subdivision in any disciplinary proceeding.

1 10. Code section 2770.12 states, in pertinent part:

2 (c) A registered nurse shall be deemed to have waived any rights granted by  
3 any laws and regulations relating to confidentiality of the diversion program, if he or  
4 she does any of the following:

5 (1) Presents information relating to any aspect of the diversion program during  
6 any stage of the disciplinary process subsequent to the filing of an accusation,  
7 statement of issues, or petition to compel an examination pursuant to Article 12.5  
8 (commencing with Section 820) of Chapter 1. The waiver shall be limited to  
9 information necessary to verify or refute any information disclosed by the registered  
10 nurse.

### 11 REGULATORY PROVISIONS

12 11. California Code of Regulations, title 16, section 1442, states:

13 As used in Section 2761 of the code, 'gross negligence' includes an extreme  
14 departure from the standard of care which, under similar circumstances, would have  
15 ordinarily been exercised by a competent registered nurse. Such an extreme departure  
16 means the repeated failure to provide nursing care as required or failure to provide  
17 care or to exercise ordinary precaution in a single situation which the nurse knew, or  
18 should have known, could have jeopardized the client's health or life.

### 19 COST RECOVERY

20 12. Code section 125.3 provides, in pertinent part, that the Board may request the  
21 administrative law judge to direct a licentiate found to have committed a violation or violations of  
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
23 enforcement of the case.

### 24 **DRUGS**

25 13. "Demerol," a brand of meperidine hydrochloride, a derivative of pethidine, is a  
26 Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(17).

27 14. "Morphine" is a Schedule II controlled substance as designated by Health and Safety  
28 Code section 11055(b)(1)(L).

15 15. "Fentanyl" is a Schedule II controlled substance as designated by Health and Safety  
16 Code section 11055(c)(8).

17 16. Marijuana is a Schedule I controlled substance as designated in Health and Safety  
18 Code section 11054, subdivision (d)(13), and a dangerous drug within the meaning of Code  
19 section 4022.

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1 17. Vicodin is a compound consisting of 5 mg. hydrocodone bitartrate, also known as  
2 dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code  
3 section 11056(e)(4), and 500 mg. acetaminophen per tablet.

4 **RESPONDENT'S TERMINATION**  
5 **FROM BOARD'S DIVERSION PROGRAM**

6 18. Between June 12, 2008, and June 20, 2011, Respondent participated in the Board's  
7 Diversion Program. On or about June 21, 2011, Respondent was terminated from the Diversion  
8 Program as a public safety risk for failing to comply with the program.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Falsified, Made Incorrect or Inconsistent Entries In Hospital or Patient Records)**

11 19. Respondent is subject to discipline under Code section 2761(a), on the grounds  
12 of unprofessional conduct as defined in Code section 2762(e), in that on or about  
13 November 21, 2007, while employed as a registered nurse in the outpatient surgery center at  
14 Oroville Hospital, located in Oroville, California, Respondent falsified, made grossly incorrect,  
15 grossly inconsistent or unintelligible entries in hospital or patient records in the following  
16 respects:

17 **Patient A:**

18 a. Respondent signed out a total of 250 mgs. of Demerol for administration. Between  
19 1116 hours and 1146 hours, Respondent administered a total of 122.5 mgs. of Demerol and  
20 wasted 127.5 mgs. In addition, Respondent falsified the physician's order by adding a secondary  
21 order for 50 mgs. (IM) of Demerol<sup>1</sup> to an existing prescription that had been signed by a  
22 physician.

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27 <sup>1</sup> The physician's original order called for 12.5 mgs. (IV) of Demerol every five (5)  
28 minutes.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 21. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds of  
4 unprofessional conduct, in that while a registered nurse at Oroville Hospital, located in Oroville,  
5 California, Respondent was grossly negligent in the following respects:

6 Gross negligence:

7 a. Respondent diverted Demerol from Patient A, leaving the patient potentially  
8 under-medicated or under-sedated during a painful or traumatic procedure.

9 b. Respondent failed to properly monitor Patient A, in that she failed to adequately  
10 document the patient's pain assessment, failed to document the patient's response to pain  
11 medications, failed to document the patient's post-procedure vital signs, and failed to complete a  
12 post-procedure assessment.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct)**

15 22. Respondent is subject to discipline under Code section 2761(a), on the grounds of  
16 unprofessional conduct, in that while a registered nurse at Oroville Hospital, located in Oroville,  
17 California, Respondent demonstrated unprofessional conduct, as follows:

18 a. Respondent diverted Vicodin, Demerol, Morphine, and Fentanyl, controlled  
19 substances, as more particularly set forth above in paragraph 20, subdivision (a).

20 b. Respondent falsified a physician's order, as more particularly set forth above in  
21 paragraph 19, subdivision (a).

22 **PRAYER**

23 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending Registered Nurse License Number 516844, issued to Kara  
26 Maret Bayma;

27 2. Revoking or suspending Public Health Nurse Certificate Number 55096, issued to  
28 Kara Maret Bayma;

1           3.     Ordering Kara Maret Bayma to pay the Board of Registered Nursing the reasonable  
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
3 Code section 125.3; and,

4           4.     Taking such other and further action as deemed necessary and proper.

5 DATED:

*February 22, 2013*

*for Jamie Bern*

LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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